FILE COPY.

FILED
OCT 13 1906
JAMES H. McKENNEY,
Clerk

In the Supreme Court of the United States.

OCTOBER TERM, 1906

UNITED STATES OF AMERICA,
Complainant.

vs.

THE STATE OF MICHIGAN,
Defendant.

10 Orig.?
4 Orig'l.
O.T.1906

IN EQUITY, ORIGINAL NO. 6

ANSWER OF THE STATE OF MICHIGAN, DEFENDANT.

CHARLES A. BLAIR, ATTORNEY GENERAL OF MICHIGAN,
Solicitor for Defendant.

HORACE M. OREN,
Of Counsel.

LANSING, MICH.
ROBERT SMITH PRINTING CO., STATE PRINTERS AND BINDERS.
1906.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1903.

UNITED STATES OF AMERICA, *Complainant.* vs. THE STATE OF MICHIGAN, *Defendant.*	In Equity. Original.

The answer of the State of Michigan, defendant, to the bill of complaint of the United States of America, complainant, made by leave of said court after the overruling of the demurrer to said bill of complaint, interposed by said defendant, respectfully shows:

FIRST.

The said defendant admits all the matters alleged in the first paragraph of complainant's bill of complaint.

SECOND.

Replying to the second paragraph of the complainant's bill of complaint the defendant admits that the lands appropriated by Congress under and by virtue of the act approved August 26, 1852, were duly selected by and certified to the State of Michigan to the full extent of the acreage enumerated in said act.

Replying to the demand that said defendant set forth an account of all and singular the lands so appropriated and in what manner and purpose the same were disposed of this defendant says: That on or after the fifth day of February, 1853, the commissioners appointed by the Governor of the State of Michigan under and in pursuance of the terms of the act of the Legislature of the State of Michigan approved February 5, 1853, which act is set forth in full in the first paragraph of complainant's bill of complaint, solicited tenders for the construction of said canal on the basis of the contractor defraying the entire cost of surveying, locating and constructing the same and the necessary traveling and other expenses of the commissioners and the salary of the engineer and assistants and the reimbursement of the State of Michigan for such advances as it had previously or should thereafter make on account thereof; that the sole consideration offered by the State to proprosed contractors was the patenting of the lands granted or to be granted as aforesaid by the United States to the State of Michigan to aid in the construction of said canal as provided in said act of Congress or such portion thereof as by tender should be offered by said proposed contractor; that the best offer received by the State of Michigan for the construction of said canal and locks was that of Joseph Fairbanks, J. W. Brooks, Erastus Corning and others associated for the purpose of entering into said contract, and that said offer was to enter into and perform said contract for the entire land grant sanctioned by said act of Congress but subject to the proviso that the taxes assessed on said lands should be remitted to the person or persons making such contract for a period of five years from the time fixed for the completion of said canal; that the authority to insert said proviso was sanctioned by the Legislature of the State of Michigan by an act, entitled "An act supplementary to an act to provide for the construction of a ship canal around the Falls of St. Marys, approved February fifth, eighteen hundred and fifty-three," which

said act was approved February 12, 1853, and is in terms as follows:

"Section 1. The people of the State of Michigan enact, That the commissioners appointed under an act to provide for the construction of a ship canal around the Falls of St. Mary's, approved February fifth, eighteen hundred and fifty-three, are hereby authorized, in case they shall find it is impracticable to let the contract for the construction of said canal, on terms which shall secure its completion according to the provisions of said act, in their discretion, to contract that any taxes to be assessed on the lands donated for that purpose, shall be remitted to the person or persons making such contract, for a period not exceeding five years from the time fixed for the completion of said canal: Provided, That when any of the said lands shall be sold by the contractors to any other persons, the same shall thereafter be subject to taxation as in other cases.

Sec. 2. For the purpose of carrying out the provisions of the foregoing section, the Auditor General is hereby required, upon satisfactory evidence that any of said lands are held by such contractors, and have not been sold by them, to receipt the amount of any such taxes assessed within the period fixed upon in such contract, and returned to his office for non-payment, and to charge the amount thereof to the general fund: Provided, That the amount so charged to the general fund may be reimbursed to the State from tolls upon said canal, in such manner as shall be provided by law, in case said amount shall not be reimbursed by the United States Government.

This act shall take effect immediately. Approved Feb. 12, 1853."

Act No. 61, Laws of Michigan, 1853, p. 86.

That thereafter and on the 5th day of April, 1853, the said commissioners having received no other or more favorable offer, entered into a contract with said Joseph Fairbanks, J. W. Brooks, Erastus Corning and their associates,

for the construction, in accordance with their said tender, of a canal and locks at Sault Ste. Marie, Michigan, on the right of way ceded to the State of Michigan by said act approved August 26, 1852, and of the full width and depth and according to the full requirements of the said act of Congress; that the said contract provided among other things that the said contractors should construct said canal and locks and should defray all expenses in connection therewith as above set forth, and that for the satisfactory completion of such work, according to their contract, they should receive from the State of Michigan its patent for the entire 750,000 acres of land appropriated as aforesaid to aid the State of Michigan in the construction of said canal and locks and that said lands should be subject to the exemption of taxation authorized by said supplemental act of the Legislature of the State of Michigan hereinbefore set forth.

That by an act of the Legislature of the State of New York, approved April 12, 1853, a corporation was created to be known as the St. Mary's Ship Canal Company, and that the said company became the assignee of said contract for the construction of said canal and locks, and after said assignment carried on and completed said contract according to the terms thereof; and that said canal and locks as thus completed were accepted by the duly authorized officers of the State of Michigan on May 21, 1855.

That thereupon and on May 25, 1855, the said 750,000 acres of land which had previous thereto been selected and certified to said State by the United States were duly patented to the said St. Mary's Ship Canal Company and thereby passed out of the ownership and control of the State of Michigan.

Defendant denies that said lands granted to the State of Michigan to aid in the construction of said canal as heretofore set forth or that any portion of the same were ever sold or disposed of by the State of Michigan other than as the consideration for the construction of said canal and locks as

above recited; it denies that any proceeds or moneys were ever received by it from the sale of said lands or any part or portion thereof or that said lands were devoted to any other purpose than as herein stated, and it denies that the complainant is entitled to any accounting with respect to the disposition of said lands other than such as is furnished by this answer.

Answering the allegation that the State of Michigan did not report to the Secretary of the Interior as required by the terms of section 5 of said act of Congress, this defendant is unable to either affirm or deny the same, from any positive knowledge based upon the records of its officers who, under the laws of said State, were charged with the carrying out of the several duties and obligations imposed by said act of Congress. It avers, however, that the records in its custody and control, showing the acts of its officers in the premises, indicate the most scrupulous intent upon their part to perform all the obligations imposed upon them by said act of Congress, and it denies that there was such a failure to make reports as is charged in said bill of complaint.

THIRD.

Said defendant admits the passage of the act of the Legislature of the State of Michigan approved February 12, 1855, referred to in the third paragraph of complainant's bill of complaint; it admits that from the completion of the said canal and locks, the same were controlled, operated and managed by the State of Michigan.

It denies that said canal and locks were wholly constructed from the appropriation of lands made by the United States heretofore referred to, but avers that said lands alone did not furnish a sufficient consideration to secure the building of said canal and locks, but that the agreement of the State of Michigan that it would rebate the taxes levied upon said lands for a period of five years after the completion of said canal, and the actual rebate thereof to the extent of some

$80,000 or thereabouts and the reimbursement by the State of the several minor municipalities that suffered by the cancellation of said taxes, formed a necessary, essential and valuable part of the consideration that secured the construction of said canal and locks; and said defendant further avers that its retention out of the tolls accruing from the operation of said canal of the amount of taxes so rebated, as hereinafter more particularly set forth, was warranted under said act of Congress.

In further denial of the allegation that said canal and locks were wholly constructed from said appropriation of land, the said defendant further answering says that in the year 1870, by reason of the determination of the Supreme Court of the State of Michigan that the right of riparian owners of land bordering the St. Mary's River extended to the thread of the stream, it became necessary for the State of Michigan to acquire certain lands bordering upon said river at the easterly entrance to said locks in order to do away with certain piers of private owners that obstructed the said easterly entrance to said locks. The lands purchased were strips of the water frontage of Private Land Claims number seventy-six and seventy-seven in the then Village of Sault Ste. Marie, Michigan, and title thereto was acquired by purchase and vested in the State of Michigan. The purchase price for the said lands was the sum of $2,560.41. Defendant admits, however, in this connection, that the said sum of money was paid out of moneys accumulated from canal tolls or the St. Mary's Canal Fund hereinafter specifically described and said fund debited therewith, and it admits that, under the decision rendered on the hearing of the demurrer interposed in this case, the State of Michigan acquired said lands subject to the trust relationship created by the act of Congress first above mentioned; but in this connection defendant avers that in 1877 the said defendant conveyed the said above described water frontage to the United States of America for the use of the latter in the construction

of the so-called Weitzel lock then under construction by the United States. Defendant avers that for this conveyance no actual consideration in money passed from the United States to the State of Michigan although the deed of conveyance recited a consideration of $2,560.41, and although the said canal fund was credited with said amount. Defendant avers that by the conveyance thus made and the said credit entry the said State of Michigan fully absolved itself from liability to further account to said complainant for the purchase of said lands out of said canal fund.

It admits that no funds belonging to the State of Michigan were ever permanently invested or involved in the control, operation and management of said canal.

It admits that said canal, during the period that the State of Michigan was in control thereof was managed, controlled, repaired and maintained from the amounts collected as tolls from vessels passing through said canal and locks; this admission, however, being subject to the following proviso which this defendant avers to be true and claims the benefit of in this its answer, viz:

Prior to the year 1859 the said canal and locks developed certain leaks and weaknesses which necessitated extensive repairs in order to insure the preservation and safe and proper use thereof. The tolls from the use of said canal having been insufficient to provide the money necessary to make such repairs, and the State of Michigan having no funds available for that purpose, the Legislature of the State of Michigan passed an act which was approved February 14, 1859, as follows:

"An act to provide for the repairing, preservation and operating of the ship canal around the Falls of St. Marys, and to perform the trust respecting the same.

Whereas, By an act of Congress approved August 26, 1852, the Congress of the United States granted to this State the right to locate a ship canal around the Falls of St. Mary, and

also seven hundred and fifty thousand acres of the public lands to aid in the construction of said canal; and,

Whereas, The said act was accepted by, and the conditions thereof made obligatory upon this State by an act approved February 5, 1853; and,

Whereas, Such canal, having been built and accepted by the authorities of this State, is found to need repairs in order to its preservation and usefulness, and the due performance of the trust created by said act of Congress, and the assent of the State thereto; therefore,

Section 1. The People of the State of Michigan enact, That the Governor and State Treasurer are hereby authorized and directed, in the name and behalf of the people of this State, to negotiate and contract for a loan or loans, not exceeding in all one hundred thousand dollars, redeemable at the pleasure of the State at any time after the expiration of twenty years from the first day of July, in the year one thousand eight hundred and fifty-nine, on the best and most favorable terms and conditions that in their judgment can be obtained, at an interest not exceeding six per centum per annum, payable half yearly, to be expended and applied solely in making, from time to time such repairs upon the locks, gates and walls thereof as the board of control created by the act entitled "An act to provide for the collection of tolls, and for the care, charge and operating of the St. Mary's Falls Ship Canal," approved February 12, 1855, may deem necessary for the preservation and efficient operation of said canal, and the full performance of the trust above recited.

Sec. 2. For the purpose of effecting the loan or loans aforesaid, the Governor and State Treasurer are hereby empowered and directed, after having first advertised for such loan in one of the daily papers in the cities of Detroit, Boston, New York and Pittsburgh, for at least thirty days prior to negotiating said loan, to cause to be made and issued, bonds in sums of not less than one thousand dollars each, to be signed by the Governor and counter-signed by the

Secretary of State and State Treasurer, with the great seal of the State affixed thereto; which said bonds shall be drawn in favor of the Auditor General, and being endorsed by him, shall become transferable and be delivered to the Governor and State Treasurer, and be transferable by them in such form as they shall decide to be redeemable as aforesaid, and to bear interest as aforesaid, payable on the first days of July and January in each year, in the city of New York or elsewhere in the United States, should the Governor and State Treasurer find it convenient and advantageous so to contract; and it is hereby further declared that it shall be deemed a sufficient execution of said power to borrow, that the Governor and State Treasurer have caused said bonds to be executed and sold: Provided, That said bonds shall be sold to the highest bidder, but shall not be sold at less than par; and the money obtained from said loan or loans shall be paid over to the State Treasurer, and shall constitute a part of the St. Mary's Falls Ship Canal Fund, to be applied and used for the above named purposes, and for no other purposes whatever; for which application of such moneys the faith of the State is hereby pledged.

Sec. 3. All the tolls and other income from the said St. Mary's Falls Ship Canal, after paying the actual and necessary expenses for the care and operating of the same, are hereby pledged and devoted to the payment of said bonds, principal and interest, as the same shall fall due, and the State hereby guarantees the payment of the principal and interest of such bonds, and each and every of them, out of such tolls and income, and pledged its faith that in default of such payment it will unconditionally pay the same without delay.

Sec. 4. All necessary contingent expenses incurred by the Governor and State Treasurer in carrying out the provisions of this act, shall be audited by the Board of State Auditors and paid out of any moneys in the treasury not otherwise

appropriated, and be charged against said canal fund: Provided, however, That the State Treasurer shall not, as a member of said Board, vote in auditing any claim under this section.

Sec. 5. The bonds, the issue of which is authorized by this act shall be numbered and registered in a book to be prepared for that purpose by the Auditor General in his office; which register shall contain the number, amount, when each bond becomes due, the rate of interest, and when and where the interest is payable; and each bond shall contain a copy of the third section of this act.

Sec. 6. This act shall take effect immediately.

Approved February 15th, 1859."

Act No. 175, Laws of Michigan 1859, p. 478.

And it further avers that by virtue of said act the bonds for the State of Michigan for the sum of $100,000 were duly issued and sold, and the proceeds thereof credited to the St. Mary's Canal Fund as hereinafter set forth, and the amount thus realized was devoted solely to the repair of said locks and the walls and gates thereof as provided in said act. But said defendant admits and avers in the same connection that said bonds and the interest thereon were fully paid out of the canal tolls subsequently collected and moneys credited to said canal fund and that the State of Michigan has and can and does make no claim on account of said bonds upon the balance in the St. Mary's Canal Fund for which this action is brought.

FOURTH.

This defendant admits that during the period of its management and control of said canal and locks certain sums of money accumulated in the treasury of the State of Michigan due to the excess of the current earnings of said canal through tolls collected and miscellaneous receipts of said canal over

the current cost of managing, operating and repairing said property and works and the payment of the principal and interest of the bonds of the State of Michigan referred to in the last preceding paragraph of this answer, the reimbursement of the state and counties thereof for taxes rebated on said canal land as hereinbefore set forth, and the payment of such further items by way of reimbursement to the State of Michigan as it was entitled to receive and retain under and by virtue of the terms of the act of Congress hereinbefore referred to making the grant of property and lands for the construction of said canal and locks.

It admits that the accumulation of this current balance was done without intention on the part of the State of Michigan to make a profit from the management and control of said canal, but avers that from the very necessities arising from the liability of said canal and locks to be injured by the incidents of navigation and the very great damage that would intervene if prompt steps were not taken to remove the cause of the injury and make immediate repairs, it was necessary to accumulate and keep on hand available for the purpose a very considerable amount of money. It avers that the sum so accumulated and held was designed to be used only for the purpose above mentioned, and that it did not arise from any intention on the part of the State of Michigan to lay as a tax for the use of said canal greater tolls than were necessary to pay all necessary expenses for the care, charge and repairs of the same.

It denies that, after the payment of the bonds and interest thereon above mentioned and such charges as the State was entitled to be reimbursed for, any tax was imposed for the use of said canal that was not reasonably necessary to provide moneys sufficient to pay the necessary expenses for the care, charge and repairs of said canal.

This defendant in reply to the demand of said bill of complaint that said defendant should set forth the rate fixed

for tolls from year to year for the use of said canal and locks states and avers as follows:

From February 12, 1855, to June 1, 1860, the tolls were fixed at four cents of enrolled measurement of vessel using canal.

From June 1, 1860 to March 30, 1871, six cents per ton.

From March 30, 1871 to July 1, 1873, four and one-half cents per ton.

From July 1, 1873 to July 15, 1875, three and one-half cents per ton.

From July 2, 1875 to close of navigation in 1878 three cents per ton.

From opening of navigation in 1879 until said canal was turned over to the United States, two and one-half cents per ton.

It further avers that upon the completion of said canal in 1855 and its opening for the lockage of vessels and the transaction of business, a superintendent was appointed in conformity with the provisions of Act No. 91 Laws of Michigan, 1855. It avers that under the provisions of said act, said superintendent was required to keep an accurate account of all tolls received from the use of said canal, and the amounts paid out for the benefit of the canal, to whom and for what purpose, and he was further required on the end of each month, or at such other time as the state treasurer should direct to pay over to said state treasurer all tolls or moneys collected over and above a sum not exceeding five hundred dollars, after paying the actual and necessary expenses for the care, repair and operating of said canal.

It further avers that the amounts thus paid over to the treasurer of the State of Michigan were required by said act to be credited to an account to be kept by said treasurer and the auditor general of the State and to be known as the "St. Mary's Falls Ship Canal Fund."

Defendant avers that from the opening of said canal until 1877 the several superintendents of said canal, and from

1877 until said canal was turned over to the United States the collector thereof, appointed under and by virtue of the provisions of Act No. 118 Public Acts of the State of Michigan of 1877, did keep accurate accounts of said tolls and the receipts and disbursements of said canal, and did deposit in the treasury of the State of Michigan from time to time as required by the Treasurer of said State the surplus money received by them severally after payment of expenses and disbursements as by said acts required, and that the moneys thus received by the said State Treasurer were credited to said canal fund.

Defendant further avers that subsequent to 1857 the financial transactions of said superintendents and collectors were published annually in the printed reports of said superintendents and collectors made to the Governor of the State of Michigan, and form a part of the printed public records of the State of Michigan and to which for greater certainty said defendant begs leave to refer.

Defendant further avers that subsequent to the turning over of said canal and locks to the United States of America in 1881 the then collector of said canal turned into the treasury of the State of Michigan all the moneys received by him from tolls and other receipts of said canal less disbursements for the expense of maintenance, operation, and repair, and also such sums as had been realized from the sale of personal property belonging to said canal, and made a final settlement with said treasurer, and that by said final settlement there was credited to said canal fund all the amounts received from said superintendents and collectors of said canal during the period of its operation by the State of Michigan and which represented the tolls and current receipts of said canal less authorized disbursements for current expenses, and also amounts received for property sold.

Defendant further avers that prior to the year 1855 there had been opened upon the books of the Treasurer and Auditor General of the State of Michigan an account denominated as

the "St. Mary's Ship Canal Fund;" that to this fund was credited the following, viz.:

First. The amounts paid into the State treasury by the several superintendents and collectors of said canal as hereinbefore set forth.

Second. The amount received from the sale of State bonds for the repair of said canal as heretofore set forth.

Third. The amount of the consideration for Private Land Claims Nos. 76 and 77 hereinbefore referred to.

Fourth. Amounts received from the sale of canal property and miscellaneous items hereinafter specifically referred to.

That said fund or account was debited with the following items, viz.:

First. Disbursements made by the State on account of said canal prior to its completion and for which the contractors who constructed said canal were not bound to reimburse the State.

Second. Amounts expended by and under the direction of the board of control of said canal in the repair and improvement thereof not included in disbursements made by the superintendent.

Third. Payments made upon the principal and interest of the bonds issued under and by virtue of the provisions of Act No. 175 Laws of Michigan, 1859, hereinbefore referred to.

Fourth. The taxes upon the 750,000 acres of land granted to aid in the construction of said canal rebated to said contractors for a period of five years, hereinbefore referred to.

Fifth. Salaries of canal officers and expenses and per diem of board of control, and such incidental and miscellaneous expenses as were not paid by the superintendent or collector of said canal.

Sixth. Advances or temporary loans made to the superintendent of said canal to enable him to pay current expense of operation.

Defendant further answering has attached to this its answer the several debit and credit items of said fund as

exhibited by the reports of the Treasurer and Auditor General of the State of Michigan in the form of a series of tabulations which are marked Exhibit A and which tabulation it prays may be considered a part of this its answer.

It avers that the said several accounts above mentioned were kept continuously until the final conversion of all the property of said canal into money as hereinafter set forth; and that said Exhibit A hereto attached is a true and accurate record of the financial transactions of the State of Michigan incident to the performance of the trust imposed upon it by said act of Congress and that the balance which is therein exhibited is the true balance representing the obligations of the State of Michigan to the United States under its trusteeship created by said act of Congress.

It admits that at the time said canal and locks were turned over to the United States by the State of Michigan there was a balance in the treasury of the State of Michigan to the credit of said fund.

It denies that the exact balance to the credit of said fund at the time said canal was turned over to the United States was the sum of $68,927.12, but admits that said sum was the balance in said fund on Sept. 30, 1883, and avers that said amount was the final balance to the credit of said fund after the sale of all the saleable property belonging to and appertaining to said canal and locks as is more particularly hereinafter set forth and that said balance remained in the treasury of the State of Michigan credited to said fund until the passage by the legislature of said State of Joint Resolution No. 20 Public Acts of 1897 hereinafter referred to.

It denies that the said sum of $68,927.12 arose solely from the collection of canal tolls but avers that it included also such moneys as were received from the sale of such personal property as belonged and appertained to said canal which was sold by the board of control of said canal prior and subsequent to the assumption of control thereof by the United States, and also such items of miscellaneous receipts as apper-

tained to said canal and locks, and all the debit and credit items hereinbefore referred to.

Defendant admits that there was a quantity of personal property appertaining and belonging to said canal on hand at and before the transfer to the United States before mentioned. In reference to the disposition of said personal property and the proceeds from the sale thereof defendant avers that subsequent to the acceptance by the State of Michigan of the terms of transfer of said canal to the United States by the act of its Legislature approved March 3, 1881, the officers of the United States to whom delivery of said canal and locks was to be made were permitted to go over the said personal property and select such thereof as they deemed to be needful in the maintenance and operation of said canal and locks after the transference to the United States, and that they did select and take a large portion of said personal property, a true list with the inventory value of which is hereto attached and made a part of this answer and marked Exhibit B; and for the property so turned over by the State of Michigan and received by the said officers of the United States, there was paid to the State of Michigan by draft on the treasury of the United States the sum of $7,922.96. Defendant avers that the sum so paid as aforesaid, by the United States to the State for the said personal property was deposited in the treasury of the State of Michigan and was credited to said "St. Mary's Canal Fund" and enters into the balance of $68,927.12. (See Exhibit A, Schedule No. 29.)

And defendant further answering says that at the time of the transfer of said above mentioned articles to the United States the only other personal property belonging to said canal and locks which had not up to that time been sold and converted into money, consisted of the items contained in the inventory or list hereto attached, marked Exhibit C, which is also made a part of this answer; that subsequently the board of control of said canal caused such of the articles

listed in said last mentioned inventory as were saleable to be sold, and there was realized therefor the sum of $1,557.84, which sum was deposited in the Treasury of the State of Michigan and credited to said "St. Mary's Canal Fund" and forms a part of the credit item of $2,084.53 appearing in Schedule 30 of Exhibit A, and is also included as a part of the balance of $68,927.12.

And defendant further avers that the only articles of personal property belonging and appertaining to said locks and canal for which the State of Michigan has been held to be accountable consisted of a list of articles nominally inventoried at the sum of $187.50, an inventory of which is hereto attached and marked Exhibit D and is hereby made a part of this answer, but said defendant avers that said articles were in fact worthless and unsaleable.

It further avers that said last mentioned articles were left in one of the warehouses of the United States appurtenant to said canal and that they have in fact remained in the care and custody of the officers of the United States in charge of the canal and locks at Sault Ste. Marie, Michigan, ever since subject to their control and disposal.

Said defendant denies that any further or larger sum of money than the $68,927.12 above mentioned accrued or was on hand or within the control of said defendant in its treasury or otherwise that might or should have been accredited to the account of said canal and locks.

FIFTH.

For as much as this honorable court in its decision on the demurrer interposed by said defendant to complainant's bill of complaint has held that the State of Michigan is liable as trustee or debtor to the United States for the admitted balance

in the treasury of the State of Michigan credited to said "St. Mary's Canal Fund," this defendant admits the allegations contained in the fifth paragraph of complainant's bill of complaint, save only the following particulars:

It denies that the terms of the act of the Legislature of the State of Michigan approved March 3, 1881, as respects the transfer of materials belonging to said canal and the payment over of the moneys remaining in said canal fund are as set forth in said bill, but avers that the exact terms of said act are as follows:

"Sec. 2. The board of control of the Sault Mary's Falls Ship Canal are hereby authorized and empowered, at any time when they may deem it proper, to transfer all material belonging to said canal, and to pay over to the United States all moneys remaining in the canal fund, excepting so much as may be necessary to put the said canal in repair for its acceptance in accordance with the act above recited: Provided, Such transfer of material and payment of moneys shall be in consideration of the construction, by the United States of a suitable dry dock, to be operated in connection with the Saint Mary's Falls Ship Canal for the use of disabled vessels."

SIXTH.

For as much as by the decision upon defendant's demurrer it is precluded from denial of the matters set forth in the sixth paragraph of complainant's bill of complaint, it admits the same.

SEVENTH.

Said defendant admits the passage of Joint Resolution No. 20 of the public acts of 1897 set forth in the seventh paragraph of complainant's bill of complaint. It admits that

demand was made upon the officers of the State of Michigan to account to the United States in the premises, but avers that said demand was not made until the fifth day of December, 1901, as appear by certified copies of the letter of demand attached to this answer and marked Exhibit E, and which is made a part of this answer.

EIGHTH.

Said defendant, answering the eighth paragraph of complainant's bill of complaint admits its liability under the act of Congress above mentioned to make the annual reports of its doings in the premises to the Secretary of the Interior.

For as much as its liability has been established by the judgment on the demurrer above mentioned, it admits its liability to pay over to the United States all funds on hand or within its control in connection with said trust and to account for or surrender to the United States the property, implements, etc., belonging to said canal.

It admits the right of the United States to have an accounting as to the premises within the limitations set by this honorable court in its opinion rendered in overruling the demurrer.

But it avers that in this its answer it has rendered a just, true, certain, specific and complete statement of its doings in and about the disposition of the lands appropriated by said act of Congress to aid in the construction of said canal, and that as respects said lands the complainant is entitled to no further or other relief than is afforded by this answer.

It further avers that in this its answer it has rendered a just, true, certain, specific and complete account to the extent required by said opinion overruling said demurrer of the moneys received from the operation and control of said canal and locks, the disposition of the personal property, tools,

implements, accouterments of said locks and canal and the money realized from the sale thereof, and of the true balance in said canal fund which under said opinion it is liable to pay over to the United States, and it claims and avers that by so doing and consenting as it hereby does that a decree be entered in this cause against it, the State of Michigan, and in favor of the United States of America for the sum of $68,927.12, the said complainant will receive all the relief to which it is entitled under its bill of complaint.

Said defendant further answering denies that it is chargeable with or should be held for interest upon the amount so as aforesaid admitted as its liability to the United States in the premises. While under the decision of this Court upon the demurrer interposed by defendant, it is bound to admit its trusteeship as to the moneys in its treasury from time to time credited to the St. Mary's Falls Ship Canal Fund and its indebtedness to the United States for the final balance herein admitted, yet it avers that the act of Congress under which its trusteeship initiated negatived the implication that it was its duty to invest the moneys that should come into its possession in its fiduciary capacity or that it should do anything else than safely keep such moneys and pay them over to the United States of America upon demand. While it admits that under the laws of the State of Michigan, and particularly under Act No. 105 of the Laws of Michigan of 1855 the Treasurer of the State of Michigan was authorized under certain conditions to deposit the surplus funds belonging to the State in banks and to require interest on said deposits to be paid to the State, and while it admits that since the passage of said act it has been the practice of the State Treasurers to deposit the surplus funds of the State, except such as were needed to meet current demands in the banks designated by said Treasurers and furnishing the security required by said act, and while the State has received from said banks from time to time interest upon said deposits aggregating very considerable amounts, yet defendant avers that there has

never been any attempt nor was it possible to apportion among the various funds that from day to day entered into the treasurer's balance their proportionate share of the interest received from the deposit of said surplus fund. Defendant avers that the cash on hand in the treasury uninvested varied from day to day, that the balances in the several funds were subject to change and were constantly changing, and that it would have been and was practically impossible to assign to each of the funds that made up the daily treasury balance their due and equitable proportion of interest accruing through the deposit of the surplus revenues of the State in interest paying banks.

It avers that the rate of interest paid by said banks was much less than the legal rate of interest, and ranged from two to three per cent upon daily balances.

Defendant avers that it was the custom of the Auditor General and Treasurer of the State to credit amounts thus received by way of interest as above set forth to the general fund of the State, and to no other fund. Defendant avers that it would be utterly impossible to determine the amount or any fair approximation of the amount of the interest which the State of Michigan realized from the moneys that have since 1858 represented the credit balance in the St. Mary's Falls Ship Canal Fund. It denies that it was any breach of the terms of its trust to allow the moneys of this fund to be mingled with the funds that may be properly denominated as funds of the State. It avers that it was undoubtedly intended by said act of Congress that the moneys arising from the execution of said trust should go into the treasury of the State on the same terms and conditions as other moneys of the State, save only that the State should be accountable to the United States for the amounts received through the execution of said trust. It avers that the deposit of surplus moneys of the State in depository banks had no relation to its duties as trustee for the United States under said act of Congress, and that, unless a duty to invest these funds existed as an

express or implied obligation of its trusteeship, the United States of America can claim no benefit therefrom. It further avers that its delay in paying over to the United States the balance in said canal fund after said canal was turned over to the United States and the canal property was converted into money, and its subsequent transfer of said balance to the general fund of the State, cannot and should not be held to give to the United States of America any greater rights than were contemplated as a condition of said trust, viz.: that the State should pay over to the United States on demand the balance credited to said fund which had arisen from the excess of receipts over disbursements incident to the State's construction, operation, and maintenance of said canal and nothing more; that until demand was made and refused no breach of the terms of its trusteeship can be imputed to the State of Michigan; that said refusal was made in obvious good faith upon the supposition that the State of Michigan had a right to attach as a condition of turning this balance over to the United States, the use of the same by the United States for the construction of a dry dock for the use of disabled vessels at Sault Ste. Marie, and upon the further supposition based upon the delay of the United States in making demand or accepting the condition imposed by the State, that the United States had relinquished its claim to said balance. Defendant avers that under said facts and circumstances interest as compensatory damages for the delay on the part of the State in turning over said balances to the United States or as resultant from its duties as trustee cannot and should not be charged against it. It denies that it, as a sovereign State, is liable to pay interest upon its debts or liabilities unless it has agreed or consented so to do and it also denies that in equity or good conscience under the facts disclosed in complainant's bill of complaint and this defendant's answer, it should be held chargeable with interest as claimed and demanded in complainant's bill of complaint.

Wherefore in consideration of the premises and the account

thus rendered in this answer and defendant's admission of liability to the amount of $68,927.12 said defendant prays the judgment of this honorable court whether further accounting shall be rendered, and whether final decree shall not be entered in favor of the United States of America as complainant and against the State of Michigan as defendant for the before mentioned sum of $68,927.12 and defendant will ever pray, etc.

Chas A. Blair

Attorney General of the State of Michigan,
Solicitor for Defendant.

HORACE M. OREN,
Of Counsel.

EXHIBIT A.

Tabulations taken from the annual reports of the State Treasurer and Auditor General of the State of Michigan showing the debit and credit items of the "St. Marys Falls Ship Canal Fund."

1.

From Auditor General's report for 1853, page 11.

Sault Ste. Marie canal fund.

	Dr.	Cr.
Nov. 30—To warrants paid during fiscal year...	$1,071 92	
By balance, November 30, 1853.....	.....	$1,071 92
Total.....	$1,071 92	$1,071 92

2.

From State Treasurer's report for 1854, page 7.

Ledger balances, November 30 1854.

	Dr.	Cr.
Sault Ste. Marie canal fund.....	$1,071 92	

3.

From Auditor General's report for 1855, pages 3 and 22.

Sault Ste. Marie canal fund.

	Dr.	Cr.
To balance, Nov. 30, 1854	$1,071 92	
amount expended	702 80	
By balance, Nov. 30, 1885		$1,774 72
Total	$1,774 72	$1,774 72

4.

From Auditor General's report for 1856, page 22.

Ledger balances on Auditor General's books, November 30, 1856.

	Dr.	Cr.
St. Mary's Falls ship canal fund	$1,774 72	

5.

From Auditor General's report for 1857, page 17.

Ledger balances November 30, 1857.

	Dr.	Cr.
Sault Ste. Marie canal fund	$1,774 72	

6.

From Auditor General's report for 1858, pages 16 and 17.

St. Mary's canal fund.

	Dr.	Cr.
To balance, Nov. 30, 1857	$1,774 72	
By receipts during fiscal year		$8,947 42
To balance, Nov. 30, 1858	7,172 70	
Total	$8,947 42	$8,947 42

7.

From Auditor General's report for 1859, page 9.

Sault Ste. Marie canal fund.

	Dr.	Cr.
By balance, Dec. 1858		$7,172 70
amount received from superintendent on account of tolls collected, act 91, 1855		3,141 36
amount received from sale of canal bonds, act 175, 1859		100,000 00
amount received for premium on canal bonds		3,112 50
To amount expended for improvement on the ship canal under act 175, 1859	$35,324 74	
credit balance, Nov. 30, 1859	78,101 82	
Total	$113,426 56	$113,426 56

8.

From Auditor General's report for 1860, page 29.

	Dr.	Cr.
By balance, Dec. 1, 1859		$78,101 82
amount received from superintendent on account of tolls collected, act 91, 1855		22,955 56
To paid interest on canal bonds	$4,830 00	
amount expended for improvements on the ship canal under act 175, 1859	28,381 26	
By balance, Nov. 30, 1860	67,846 12	
Total	$101,057 38	$101,057 38

9.

From Auditor General's report for 1861, pages 16 and 17.

	Dr.	Cr.
By balance, Nov. 30, 1860	$67,846 12	
receipts during the fiscal year	10,136 67	
To warrants paid during the fiscal year		$36,607 72
balance, Nov. 30, 1861		41,375 07
Total	$77,982 79	$77,982 79

9.

From Auditor General's report for 1861, page 9.

	Dr.	Cr.
By balance, Nov. 30, 1860		$67,846 12
receipts during the fiscal year		10,136 67
To warrants paid during the fiscal year	$36,607 72	
balance, Nov. 30, 1861	41,375 07	
Total	$77,982 79	$77,982 79

10.

From Auditor General's report for 1862, page 17.

Sault Ste. Marie canal fund.

	Dr.	Cr.
By balance, Dec. 1, 1861	.....	$41,375 07
amount received from the superintendent of the ship canal, on account of tolls collected	.....	15,000 38
To paid interest on "Canal Bonds"	$6,750 00	
paid sundry contingent expenses	25 18	
balance, Nov. 30, 1862	49,600 27	
Total	$56,375 45	$56,375 45

11.

From Auditor General's report for 1863, page 14.

	Dr.	Cr.
By balance Dec. 1, 1862	.....	$49,600 27
amount received from canal superintendent on account of tolls collected	.....	19,955 22
To paid interest on canal bonds	$5,910 00	
sundry contingent expenses	150 20	
amount transferred to general fund under J. R. No. 2, 1863 (canal land taxes)	8,120 00	
balance Nov. 30, 1863	55,375 29	
Total	$69,555 49	$69,555 49

12.

From Auditor General's report for 1864, page 21.

Sault Ste. Marie canal fund.

	Dr	Cr.
By balance, Dec. 1, 1863	.....	$55,375 29
amount received from canal superintendent on account of tolls collected	.....	15,144 00
To paid interest on canal bonds	$6,000 00	
this amount transferred to general fund under J. R. No. 2. 1863 (canal land taxes)	14,455 22	
balance, Nov. 30, 1864	50,064 07	
Total	$70,519 29	$70,519 29

13.

From Auditor General's report for 1865, page 17.

Sault Ste Marie canal fund.

	Dr.	Cr.
By balance, Dec. 1, 1864	.....	$50,064 07
amount received from canal superintendent on account of tolls collected	.....	16,374 71
To paid interest on canal bonds	$6,090 00	
paid salary of superintendent and incidental expenses	1,456 10	
this amount transferred to general fund under J. R. No. 2, 1863 (canal land taxes)	8,644 00	
balance, Nov. 30, 1865	50,248 68	
Total	$66,438 78	$66,438 78

14.

From Auditor General's report for 1866, page 29.

Sault Ste. Marie canal fund.

	Dr.	Cr.
By balance, Dec. 1, 1865		$50,248 68
amount received from canal superintendent on account of tolls collected		14,184 60
To paid interest on canal bonds	$6,000 00	
paid salary of superintendent and incidental expenses	1,520 00	
this amount transferred to general fund under J. R. No. 2, 1863 (canal land taxes)	9,118 61	
balance, Nov. 30, 1866	47,794 67	
Total	$64,433 28	$64,433 28

15.

From Auditor General's report for 1867, pages 22 and 23.

Sault Ste. Marie Falls ship canal fund.

	Dr.	Cr.
By balance, Nov. 30, 1866		$47,794 67
cash received on account of tolls		18,905 61
To paid interest on canal loan bonds	$5,940 00	
paid salary of superintendent (11 months)	1,375 00	
amount transferred to general fund under J. R. No. 2, 1863	7,239 60	
balance, Nov. 30, 1867	52,145 68	
Total	$66,700 28	$66,700 28

16.

From Auditor General's report for 1868, pages 6 and 7.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
By balance, Nov. 30, 1867		$52,145 68
cash received on account of tolls		13,959 67
discount on canal bonds purchased and retired		490 00
To paid interest on canal loan bonds	$6,000 00	
salary of superintendent	1,500 00	
amount transferred to general fund, under J. R. No. 2, 1863	10,830 61	
paid canal bonds	14,000 00	
paid expenses of canal board	267 52	
paid advertisement of rate of toll	7 00	
balance, Nov. 30, 1868	33,990 22	
Total	$66,595 35	$66,595 35

17.

From Auditor General's report for 1869, pages 8 and 9.

	Dr.	Cr.
By balance, Nov. 30, 1868		$33,990 22
cash received on account of tolls		12,396 50
discount on canal bonds purchased and retired		43 00
To paid interest on canal loan bonds	$5,190 00	
paid salary of superintendent	1,125 00	
amount transferred to general fund, under J. R. No. 2, 1863	6,605 15	
paid canal bonds	2,000 00	
expenses of canal board	837 60	
costs of suit	166 37	
dredging	1,099 81	
balance, Nov. 30, 1869	29,405 79	
Total	$46,429 72	$46,429 72

18.

From Auditor General's report, 1870, pages 8 and 9.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
By balance, Nov. 30, 1869		$29,405 79
cash received on account of tolls		25,304 47
To paid interest on canal loan bonds	$4,990 00	
salary of superintendent	1,500 00	
amount transferred to general fund, under J. R. No. 2, 1863	4,067 72	
purchase of private claims No. 76 and 77	2,500 00	
paid canal bonds	1,000 00	
expenses of canal board	312 00	
gold premium—on interest	331 64	
advertising	38 30	
balance, Nov. 30, 1870	39,970 60	
Total	$54,710 26	$54,710 26

19.

From Auditor General's report, 1871, pages 12 and 13.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
By balance, Nov. 30, 1870		$39,970 60
cash received on account of tolls		19,467 21
To expenses of canal board	$474 60	
paid interest on canal loan bonds	4,860 00	
salary of superintendent	1,125 00	
amount transferred to general fund, under J. R. No. 2, 1863	10,322 23	
gold premium—on interest	266 28	
advertising	38 18	
paid canal bonds	2,000 00	
balance, Sept. 30, 1871	40,351 52	
Total	$59,437 81	$59,437 81

20.

From Auditor General's report, 1872, pages 10 and 11.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
By balance, Sept. 30, 1871	.....	$40,351 52
cash received on account of tolls	.....	30,923 30
To salary of superintendent	$1,500 00	
paid interest on canal loan bonds	4,890 00	
expenses of canal board	129 20	
printing and advertising	30 63	
maps and documents	25 00	
expenses in Brown case	45 00	
balance, Sept. 30, 1872	64,654 99	
Total	$71,274 82	$71,274 82

21.

From Auditor General's report, 1873, page 13.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
To salary of superintendent	$1,500 00	
paid canal bonds	8,000 00	
paid interest on canal bonds	4,570 00	
expenses of canal board	125 95	
printing and advertising	11 85	
By balance, Sept. 30, 1872	.....	$64,654 99
cash received on account of tolls	.....	29,271 85
To balance	79,719 04	.....
Total	$93,926 84	$93,926 84

22.

From Auditor General's report, 1874, page 23.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
To paid salary of superintendent	$1,750 00	
paid canal bonds	12,000 00	
paid interest on canal bonds	4,199 90	
paid for repairs, etc., on canal	1,012 00	
paid for dredging	2,235 00	
paid expenses of canal board	235 80	
paid for printing	4 25	
By cash received on account of tolls		$27,333 77
	$21,436 95	$27,333 77
By balance, Sept. 30, 1873		79,719 04
To balance, Sept. 30, 1874	85,615 86	
Total	$107,052 81	$107,052 81

23.

From Auditor General's report, 1875, page 27.

St. Mary's Falls ship canal fund.

		Dr.	Cr.
To paid salary of superintendent		$1,500 00	
paid canal bonds (purchased)	$15,000 00		
paid interest on canal bonds	3,376 63		
paid premium on canal bonds	600 00		
		18,976 62	
paid for repairs, etc		2,733 20	
paid for dredging		13,886 25	
paid expenses of canal board		235 80	
paid for printing and advertising		11 25	
New Lock Gates:			
To paid for estimate	$15 00		
paid for drawings	12 00		
paid for construction,	7,950 00		
paid for construction, extra	56 96		
		8,033 96	
By cash received on account of tolls			$18,850 00
		$45,377 09	$18,850 00
By balance, Sept. 30, 1874			85,615 86
To balance, Sept. 30, 1875		59,088 77	
Total		$104,465 86	$104,465 86

24.

From Auditor General's report, 1876, page 27.

St. Mary's Falls ship canal.

		Dr.	Cr.
To paid salary of superintendent		$1,625 00	
paid interest on canal bonds		2,760 00	
paid for repairs, etc		6,316 99	
paid for dredging		4,544 20	
paid expenses of canal board		78 60	
paid for coal for pumping out locks		2,213 66	
New Lock Gates:			
To paid for transportation of lock gates	$1,140 00		
paid for inspection of construction of lock gates	65 00		
paid for advertising for bids for lock gates	18 90		
paid expenses to Gibraltar, to perfect contract	24 40		
		1,248 30	
Expenses of Investigation:			
To paid for examination of accounts	$40 20		
paid expenses of board	163 20		
paid for examination as to Covell theft	155 11		
		358 51	
By cash received on account of tolls			$14,668 03
		$19,145 26	$14,668 03
By balance, Sept. 30, 1875			59,088 77
To balance, Sept. 30, 1876		54,611 54	
Total		$73,756 80	$73,756 80

25.

From Auditor General's report, 1877, page 77.

St. Mary's Falls ship canal fund.

		Dr.	Cr.
To paid salary of superintendent....	$1,344 34		
paid salary of collector of tolls...	335 47		
		$1,679 81	
paid for books for canal office.....		34 64	
paid for interest on canal bonds.....		2,610 00	
paid for repairs.....		1,257 00	
paid for pumping out locks.....		1,805 03	
paid for expenses of canal board.....		78 60	
New Lock Gates:			
To paid for plans.....	$50 00		
paid for advertising for bids....	9 00		
paid for construction.....	6,200 00		
paid superintendent of construction.....	28 50		
paid for inspection.....	138 63		
		6,426 93	
Expense of prosecuting Covell, supposed defaulter:			
To expense of board.....	$99 60		
counsel fees and expenses.....	349 50		
stenographer	15 00		
		464 10	
By cash received on account of tolls.....		.....	$21,910 94
cash received from sale of land to United States.....		.....	2,560 41
cash received from sale of old iron.....		.....	273 03
		$14,356 11	$24,744 38
By balance, Sept. 30, 1876.....		.....	54,611 54
To balance, Sept. 29, 1877.....		64,999 81	
Total.....		$79,355 92	$79,355 92

26.

From Auditor General's report, 1878, page 23.

St. Mary's Falls ship canal fund.

		Dr.	Cr.
To paid salary of superintendent and collector.		$2,925 02	
paid expenses to Detroit to procure safe	$17 75		
paid for new safe for canal office	200 00		
		217 75	
paid for interest on canal bonds		2,910 00	
paid for current expenses		1,000 00	
paid for expenses of canal board		317 40	
New Lock Gates:			
To paid for castings	$19 50		
paid for advertising for bids	4 20		
paid for printing notices	75		
paid for construction	3,758 00		
		3,782 45	
Expense of prosecuting Covell, supposed defaulter:			
To paid costs and expenses in suit	$111 20		
paid counsel fees	125 00		
		236 20	
By cash received on account of tolls			$20,921 13
		$11,388 82	$20,921 13
By balance, Sept. 29, 1877			64,999 81
To balance, Sept. 30, 1878		74,532 12	
Total		$85,920 94	$85,920 94

27.

From Auditor General's report, 1879, page 23.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
To paid salary of superintendent and collector.	$3,025 00	
paid canal bonds	38,000 00	
paid interest on canal bonds	2,610 00	
paid expenses of canal board	332 85	
paid for telegraphing	2 73	
By cash received on account of tolls		$21,000 00
	$45,970 58	$21,000 00
By balance, Sept. 30, 1878		74,532 12
To balance, Sept. 30, 1879	49,561 54	
Total	$95,532 12	$95,532 12

28.

From Auditor General's report, 1880.

St. Mary's Falls ship canal fund.

		Dr.	Cr.
To paid salaries of superintendent and collector		$3,000 00	
paid canal bonds		8,000 00	
paid interest on canal bonds		150 00	
paid for current expenses		2,000 00	
paid per diem expenses of canal board		531 01	
paid for submarine armor		500 00	
amounts expended for repairing locks:			
For stone	$5,968 10		
" superintending stonecutting	56 85		
" inspecting stone	45 60		
" architect and engineer	126 22		
" telegraphing	19 01		
		6,215 78	
By cash received on account of tolls			$19,500 00
		$20,396 79	$19,500 00
By balance, Sept. 30, 1879			49,561 54
To balance, Sept. 30, 1880		48,664 75	
Total		$69,061 54	$69,061 54

29.

From Auditor General's report, 1881.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
To paid salaries of superintendent and collector	$2,250 00	
paid for repairs	3,989 31	
paid for sail-boat lost	55 00	
paid for telegraphing	16 85	
paid per diem and expenses of canal board	932 93	
By cash received on account of tolls		$17,500 00
cash received for office furniture, tools, material, etc., sold U. S.		7,922 96
	$7,244 09	$25,422 96
By balance, Sept. 30, 1880		48,664 75
To balance, Sept. 30, 1881	66,843 62	
Total	$74,087 71	$74,087 71

30.

From Auditor General's report, 1882.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
To amount paid for freight	$4 03	
By cash of Wm. Chandler, collector of tolls—		
balance in his hands		$2,084 53
balance, Sept. 30, 1881		66,843 62
To balance, Sept. 30, 1882	68,924 12	
Total	$68,928 15	$68,928 15

31.

From Auditor General's report, 1883.

St. Mary's Falls ship canal fund.

	Dr.	Cr.
By cash of Wm. Chandler, late collector of tolls, on account of an error in the amount turned into the State treasury, Dec. 20, 1881, to balance his account		$3 00
balance, Sept. 30, 1882		68,924 12
To balance, Sept. 29, 1883	$68,927 12	
Total	$68,927 12	$68,927 12

EXHIBIT B.

July 27, 1881.

The following is an invoice of property transferred to the United States from the State of Michigan July 20, 1881:

1 Grindstone	$5 00
2 box stoves	10 00
2 sets large purchase blocks	32 00
1 scow	150 00
1488 barrels of cement	4,538 40
1 dam cover, piece canvas	244 00
8654 feet square timber	778 86
2 booms gates	40 00
2 heavy oak timbers for mitre-sills	85 00
2 beacon lights	34 00
8 office lamps	12 00
2 base burner stoves in office	20 00
1 calendar clock	7 00
5 desks	75 00
16 chairs	35 00
1 safe	200 00
1 copying press	10 00
1 barometer	15 00
3 spittoons	1 50
8 curtains and fixtures	4 00
1 capstan	50 00
180 feet wire rope	24 00
1 office table	5 00
4582 feet pine timber	458 20
3000 yards clay	900 00
2250 pounds drift bolts	56 25
2 coal hods	2 00

1 oil tank	$10 00
4 jack screws	40 00
2 oilers	50
1 stone rake	2 00
1 dredging kettle	3 00
2 sounding poles	4 00
5 steel wrenches	10 00
2¼ doz. lamp chimneys	4 50
1 sprinkler	50
1 marine glass	1 00
1 flag	5 00
1 ice cooler and stand	2 00
1 bench vice	1 00
5 oak rollers	4 00
1 lamp filler	25
1 1-10 gal. oil can	2 00
½ gal. oil can	75
3 ink stands	1 75
3 hand lanterns	1 50
1 office lamp	4 00
1320 ft. C. M. oak timber	44 00
Total	$7,933 96

"EXHIBIT C."

The following is an invoice of property yet remaining undisposed of at the Sault Ste. Marie Canal July 21, 1881:

2 machinists hammers.....	$2 00
4 cold chisels.....	1 00
3 cant hooks.....	6 00
1 sledge	1 00
8 picks	3 00
4 crow bars.....	6 00
1 shackle bar.....	2 00
2 sets match tackle blocks.....	10 00
1 yawl boat.....	15 00
5 oars	2 50
1 small boat.....	5 00
2 cross cut saws.....	4 00
1 steam pump (sold, see p. 128).	1,500 00
1 coil new rope, wt. 170 lbs., @ 13 cents.....	22 10
2 derricks	80 00
1 horse	100 00
1 single harness.....	7 00
10 shovels	10 00
1 fork, curry comb and brush....	1 00
1 wagon	20 00
2 sleighs	20 00
1 cart and harness.....	15 00
2 wagon boxes.....	
3 base burner stoves in residence.	30 00
4 axes	4 00
1 letter press and stand.....	5 00
3 thermometers	
1 hoisting apparatus (doubtful)	
Total	$1,873 60

"EXHIBIT D."

List of property belonging to St. Mary's Falls Ship Canal not sold by the board of control of said canal, for the reason that it was unsaleable and worthless, but left in United States warehouse at Sault Ste. Marie, Michigan, under the control of officers of United States in charge of U. S. Ship Canal.

2	machinists hammers.....	$2 00
4	cold chisels.....	1 00
3	cant hooks.....	6 00
1	sledge	1 00
4	picks	3 00
4	crow bars	6 00
1	shackle bar.....	2 00
	lot old iron.....	
5	oars	12 50
1	small boat.....	5 00
2	cross cut saws.....	4 00
	wheelbarrow	
2	derricks	100 00
10	shovels	10 00
1	fork, curry comb and brush....	1 00
2	sleighs	20 00
2	wagon boxes.....	
1	stove	10 00
4	axes	4 00
3	thermometers	
1	hoisting apparatus.....	
	Total	$187 50

"EXHIBIT E."

Department of Justice,
Washington, D. C., December 5, 1901.

Board of Control of St. Mary's Falls Ship Canal, Lansing, Michigan.

Gentlemen—In behalf of the United States I have the honor to request that the State of Michigan acount to the United States, at once, for all funds in its hands as trustee for the United States, in the construction, control and operation of the St. Mary's Falls Ship Canal, as well as for all property belonging to the United States, but remaining in the hands or under the control of the State of Michigan, as such trustee, at the time when said canal was returned to the United States.

Respectfully,
P. C. KNOX,
Attorney General.